

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3925 OF 2018.

Ku. Pratibha d/o Prabhakar Sonkusare
and others. ... **PETITIONERS.**

VERSUS

The Scheduled Tribe Caste Certificate
Scrutiny Committee, Amravati ... **RESPONDENT.**

WITH

WRIT PETITION NO. 3934 OF 2018.

Prashant s/o Prabhakar Sonkusare ... **PETITIONER.**

VERSUS

The Scheduled Tribe Caste Certificate
Scrutiny Committee, Amravati ... **RESPONDENT.**

WITH

WRIT PETITION NO. 3909 OF 2018.

Akshay s/o Ashok Sonkusare ... **PETITIONER.**

VERSUS

The Scheduled Tribe Caste Certificate
Scrutiny Committee, Amravati ... **RESPONDENT.**

Shri Ashwin Deshpande, Advocate for the petitioners.
Shri D.P. Thakare, Addl. GP and Shri A.M. Kadukar, A.G.P. for the
respondent

CORAM : B.P. DHARMADHIKARI
AND Z.A HAQ, JJ.

DATED : JULY 06, 2018.

Heard Shri A. Deshpande, learned Advocate for the petitioners and Shri D.P. Thakare, learned Addl.G.P. and Shri A.M. Kadukar, learned A.G.P. for respondent.

2. These Writ Petitions are disposed of by common order as the issue involved in all these petitions is same.

3. Petitioners claim that they belong to Halbi, Scheduled Tribe. All the petitioners belong to one family. The caste certificate of Prashant Prabhakar Sonkusare - (Petitioner in Writ Petition No. 3934/2018), was invalidated by the Caste Scrutiny Committee by an order dated 14.11.2003. This order of the Caste Scrutiny Committee was challenged before this Court by the said petitioner by filing Writ Petition No. 11/2004, which was dismissed on 06.05.2004. Prashant had then filed Special Leave Petition Nos. 23311-23312 of 2004, before the Hon'ble Supreme Court of India, in which leave relief was granted and these Special Leave Petitions came to be registered as Civil Appeal Nos. 106 and 107 of 2013. The Civil Appeals came to be decided by the Hon'ble Supreme Court

by order dated 07.01.2013. The Hon'ble Supreme Court remanded the matter to the Caste Scrutiny Committee for verification afresh.

In the meantime the caste certificate of Ku. Pratibha Prabhakar Sonkusare (sister of Prashant) and caste certificates of Akshay, Ku. Pranali and Ku. Prajakta, son and daughters of Ashok Sonkusare, were also referred to the Caste Scrutiny Committee for verification. According to the petitioners, Ashok Sonkusare is the real uncle of Prashant.

4. The record shows that Akshay Ashok Sonkusare (Petitioner in Writ Petition No.3909/2018), had approached this Court vide Writ Petition No. 2044/2016, making a grievance that his caste claim was pending before the Scrutiny Committee for verification, however, in the meanwhile, the Engineering College where he was taking education, intended to take coercive action against him for not producing the caste validity certificate. Division Bench of this Court disposed of that Writ Petition No. 2044/2016 on 11.04.2016, directing the Caste Scrutiny Committee to take decision within one year from 25.04.2016, on which date Akshay was directed to appear before the Committee. This Court granted protection to Akshay, as far as his education was concerned.

5. All these 5 petitioners objected for taking up of the verification proceedings before the Caste Scrutiny Committee alleging that they were not having faith in the Members of the Committee. In view of the objection raised by the petitioners, the Caste Scrutiny Committee passed an order on 29.08.2016, declining to proceed with the proceedings of verification. According to the petitioners, after the order dated 29.08.2016 was passed, the petitioners filed an application before the Caste Scrutiny Committee on 27.09.2016, and tendered their unconditional apology and requested the Caste Scrutiny Committee to proceed with the verification proceedings. According to the petitioners, same request was reiterated by them vide applications dated 08.11.2016 and 07.11.2017, however, the Caste Scrutiny Committee has not taken any action in the matters, and therefore, the petitioners have approached this Court praying for a writ of mandamus, directing the Caste Scrutiny Committee to proceed with the verification proceedings.

6. Learned Advocate appearing for the petitioners has submitted that Akshay [Petitioner in Writ Petition No.3909/2018] and Prashant [Petitioner in Writ Petition No. 3934/2018], are in employment. The details as to what the other three petitioners i.e.

Ku. Pratibha; Ku. Pranali and Ku. Prajakta (Petitioners in Writ Petition No. 3925/2018) are doing, are not disclosed in the Writ Petition.

7. Learned Addl. G.P. and learned A.G.P. appearing for respondent have submitted that there is a calculated attempt on the part of the petitioners to protract the matters, and the Caste Scrutiny Committee is not permitted by them to complete the verification proceedings.

8. We find substance in the submissions made on behalf of the Caste Scrutiny Committee, however, as the petitioners have tendered unconditional apology, and have undertaken before this Court through their Advocate that they will cooperate with the Caste Scrutiny Committee and will not seek any adjournment before the Caste Scrutiny Committee, we are of the view that interests of justice would be sub-served by passing the following order :

ORDER

- (1) The Caste Scrutiny Committee shall proceed with the verification proceedings and complete the said proceedings within one year from today.
- (2) Petitioners shall appear before the Caste Scrutiny

Committee on 01.08.2018, and abide by the further instructions in the matter. On 01.08.2018, petitioners shall submit all the documents, which according to them are necessary for verification of their caste claim.

(3) The petitioners shall also submit the complete genealogical tree on affidavit, before the Caste Scrutiny Committee on 01.08.2018.

(4) As we prima facie find that there is a deliberate attempt on the part of the petitioners to protract the matters, we direct that Prashant Prabhakar Sonkusare (Petitioner in Writ Petition No.3934/2018) and Akshay Ashok Sonkusare (Petitioner in Writ Petition No. 3909/2018) shall be paid 80% of the salary receivable by them till the decision is taken by the Caste Scrutiny Committee on their caste claim. Entitlement of these two petitioners to receive the balance 20% amount would depend on the decision of the Caste Scrutiny Committee.

(5) Ku. Pratibha Ashok Sonkusare, Ku. Pranali Ashok

Sonkusare and Ku. Prajakta Ashok Sonkusare (Petitioners in Writ Petition No. 3925/2018), shall surrender their Original Diploma/Degrees /Certificates before the Caste Scrutiny Committee on 01.08.2018, and these documents shall be retained by the Caste Scrutiny Committee till the matter is disposed by it. These three petitioners shall also file separate affidavits before the Caste Scrutiny Committee on 01.08.2018, pointing out their present status as to whether they are in employment or undertaking education. If any of these petitioner is undertaking education, then the result of that petitioner shall not be declared until disposal of the proceedings by the Caste Scrutiny Committee.

(6) Writ Petitions are disposed of accordingly. No costs.

JUDGE

JUDGE

Rgd.